

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
SOUTHERN DIVISION

REX GARD, Plaintiff, vs. BOB DOOLEY, CHIEF WARDEN, INDIVIDUAL AND OFFICIAL CAPACITY; JENIFER STANWICK, DEPUTY WARDEN, INDIVIDUAL AND OFFICIAL CAPACITY; REBECCA SCHIEFFER, ASSOCIATE WARDEN, INDIVIDUAL AND OFFICIAL CAPACITY; SUSAN JACOBS, ASSOCIATE WARDEN, OFFICIAL AND INDIVIDUAL CAPACITY; TAMMY DEJONG, UNIT STAFF, OFFICIAL AND INDIVIDUAL CAPACITY; AND OTHER DOC STAFF, UNKNOWN AT THIS TIME, INDIVIDUAL AND OFFICIAL CAPACITIES; Defendants.	4:14-CV-04183-LLP ORDER DENYING MOTION FOR RECUSAL
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This matter is before the court on plaintiff Rex Gard's *pro se* complaint. Mr. Gard now moves this court to recuse itself on the grounds that the court previously recused itself in Gard v. Weber, Civ. No. 10-5017.

Mr. Gard's prior lawsuit in Civ. No. 10-5017 was a petition for a writ of habeas corpus. In that petition, Mr. Gard was seeking a writ of habeas corpus in federal court on the grounds that his state court criminal conviction had violated his constitutional rights. This court recused itself in that matter because the court had knowledge of some facts regarding Mr. Gard's

underlying state criminal case. The recusal was based on knowledge of the facts of the claim rather than anything personal to Mr. Gard himself.


Mr. Gard's other cases now pending in federal court do not involve the facts of his underlying conviction in state court. Rather, these pending matters involve allegations regarding the current circumstances of Mr. Gard's confinement in state prison. This court has no prior knowledge of those prison conditions. Hence the reason which existed for this court's prior recusal from Mr. Gard's habeas case does not exist in his present pending cases.

Accordingly, it is hereby

ORDERED that Mr. Gard's motion to recuse is denied.

DATED this 29th day of June, 2015.

BY THE COURT:

A handwritten signature in cursive script, appearing to read "Veronica L. Duffy", is written over a horizontal line.

VERONICA L. DUFFY
United States Magistrate Judge